

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Thursday 08th October, 2020

No. 232

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 14/LD/2020

Dated: 07.10.2020

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 21st day of September, 2020 is hereby published for general information :-

THE BOARD OF OPEN SCHOOLING AND SKILL EDUCATION, SIKKIM ACT, 2020

(ACT NO. 14 of 2020)

PREAMBLE

An Act to provide for establishment and incorporation of the State Board for Open School Education upto pre-degree level including Secondary, Senior Secondary, Skill and Vocational Education in the State of Sikkim and to provide for matters connected therewith or incidental thereto;

Whereas the crucial role of universal school education along with skill and vocational education for strengthening the social fabric of democracy through provision of equal opportunity to all has been accepted since inception of our republic. Over the years there has been significant spatial and numerical expansion of schools in the country, yet the goal of providing education to all continues to elude;

And Whereas the number of children, particularly children from disadvantaged groups, weaker sections and children from border and hilly areas, who drop out of school before completing school education, remains very large. Moreover, the quality of learning achievement is not always entirely satisfactory even in the case of children who complete elementary, secondary and senior secondary education;

And Whereas in order to enhance the infrastructural support to cater to the needs of growing number of students in the field of school education at secondary and senior secondary level in general and in the area of skill and vocation education in particular, it is felt necessary to involve public private participation and partnership to improve literacy, enhance and

accelerate the enrolment/retention of students and to attain universalisation of school education, vocational education in the State;

And Whereas it is also deemed essential to create a mechanism to provide for secondary education, senior secondary education, skill and vocational education upto pre-degree level so as to create and provide opportunity for continuing education to those who have missed opportunity to complete school and development education, for adult neo-literates, working men and women to reinforce their functional literacy and not to allow them to relapse into illiteracy and other children/ persons desirous of pursuing school level education, Skill and vocational education by offering courses and programmes of general education/ life enrichment and vocational and skill education;

And Whereas it is expedient to establish a State Board for Secondary, Senior Secondary, Skill and Vocational Education in the State of Sikkim to provide school education, skill and vocational education through all possible modes including face to face mode, flexible mode, open and distance learning mode and e-learning/online mode with a view to comprehensively enhance the access to education, to upscale the activities and to provide opportunities to the learners in all possible ways so as to provide ample access to sustainable learner-centric quality school education, skill upgradation and training to learners by using innovative technologies and methodologies of learning and imparting education;

And Whereas, the Regional Education Development Council, New Delhi, a Non-Profit organization registered under Section 25 of the Companies Act, 1956 having its registered Office at 2nd floor, Manak Complex, School Block, Shakarpur - New Delhi - 110092 is engaged in the field of education and has agreed to establish a State Board for Secondary, Senior Secondary, Skill and Vocational Education in the State of Sikkim in accordance with the provisions of this Act.

It is therefore hereby enacted in the Sixty-ninth Year of the Republic of India as follows:-

Section 1- Short title, extent and commencement :

- 1) This Act may be called the Board of Open Schooling and Examination, Sikkim Act, 2020.
- 2) It extends to the whole of Sikkim.
- 3) It shall come into force on such date as the State Government may by notification appoint in this behalf.

Section 2- Definitions :

In this Act, unless the context otherwise requires:-

- a. **"Academic Year"** means the academic year as decided by the Board;
- b. **"Affiliation"** together with its grammatical variations, means and includes, in relation to an institution, school and center, recognition or accreditation of such institution, school and center by, association of such institution, school and center, located in or outside the State of Sikkim including overseas, and admission of such institution, school and center, to the privileges of the Board including for the purpose of conducting the formal and informal school education, open and distance school education, vocational education, skill development programs of the Board;
- c. **"Board"** means the Board of Open Schooling and Examination, Sikkim established under Section 3;

- d. **"Board of Management"** means the Board of Management constituted under Section 4;
- e. **"Center"** means a counselling centre or a study centre or information center or a facilitation center, established or maintained or recognized or accredited by the Board for the purpose of advising, counselling or for rendering any other assistance required by the student of any institution or school or center affiliated to the Board;
- f. **"Chairperson"** means the Chairperson of the Board appointed by the sponsoring body under Section 4;
- g. **"Course"** means and includes one of the branch of learning in programs of studies of school education, Skill and Vocational education, imparted in the formal mode and/or in the informal (non-formal)/distance education mode and/or in the virtual campus and/or in the online/e-learning mode in or through any institution, school or Study Centre affiliated to the Board;
- h. **"Credit"** is recognition that a learner has successfully completed a prior course of learning, corresponding to a qualification at a given level;
- i. **"Distance education"** includes "open and distance education/informal education" and means education imparted by means of communication and e-learning source viz broadcasting, telecasting, correspondence courses, seminars, contact programmes and any other such methodology;
- j. **"Employee"** means a person appointed by the Board to work in the Board and includes teachers, officers and others employees of the Board;
- k. **"Examination"** means an examination conducted by the Board in the mode and manner as decided by the Board;
- l. **"Examination Superintendent"** means a person appointed as such by the Board for control and supervision of the examinations to be conducted by the Board;
- m. **"Fee"** means collection made by the Board from the students, institutions, schools, centers and any other service provider in relation to providing school education, vocational education and/or skill development/training, by whatever name it may be called, which is not refundable;
- n. **"Guardian"** in relation to child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a Court or a statute;
- o. **"Head of the Institution"** means the Principal, the Head Master or the Head Mistress of a School, institution, Centre, affiliated, accredited or recognised by the Board;
- p. **"Institution"** means institution imparting school education, Skill and Vocational education/training;
- q. **"Knowledge"** means the outcome of the assimilation of information through learning. Knowledge is the body of facts, principles, theories and practices that is related to a field of work or study. Knowledge is prescribed as theoretical and/or factual;
- r. **"Learner"** refers to an individual undergoing skill development training, whether in a formal or informal setting;
- s. **"Learning Outcomes"** represent what a learner knows, understands and is able to do on completion of a learning process, and which would expression terms of knowledge, skills and competence;

- t. **"Local Bodies"** means Municipalities, Panchayat Samitis, Zila Parishads, Small Town Committees or Notified Area Committees;
- u. **"Managing Committee"** means the Managing Committee constituted by the foundation society or the governing body of an institution, school, center etc;
- v. **"Member"** means a member of the Board and includes the Chairperson and Vice-Chairperson thereof;
- w. **"Official Gazette"** means the Gazette of the State of Sikkim;
- x. **"Online Education"** means and includes "virtual education/informal education" imparted by means of communication viz e-learning, broadcasting, telecasting, correspondence courses, seminars, contact programmes and any other such methodology;
- y. **"Open School"** means all the school, institution or center affiliated, accredited or recognised under the Board including the Board itself for conduct of informal and open and distance school education;
- z. **"Parent"** means either the natural or step or adoptive father or mother of a child;
- aa. **"Plus Two Scheme"** means the scheme of education where under education is imparted for the two additional successive classes immediately following matriculation;
- bb. **"Qualification"** means a formal outcome of an assessment and validation process which is obtained when a competent body determines that an individual has achieved learning outcomes to given standards;
- cc. **"Regional Campus"** means the campus of the Board located in and outside Sikkim or in any part of India and/or abroad;
- dd. **"Regulation"** means the regulations made under this Act;
- ee. **"School Education"** means all education up to the twelfth class, immediately preceding the state of entry to a course leading to the first degree of a Board established by law in India and includes plus two scheme;
- ff. **"Secretary"** means the Secretary of the Board appointed under Section 4;
- gg. **"Skills"** means the ability to apply knowledge and use know-how to complete tasks and solve problems. Skills are described as cognitive (involving the use of logical, intuitive and creative thinking) or practical (involving manual dexterity and the use of methods, materials, tools and instruments);
- hh. **"Sponsoring Body"** means the Regional Education Development Council, New Delhi a non-profit company registered under Section 25 of the companies Act 1956;
- ii. **"Study Centre"** means center as defined under clause (d) of Section 2;
- jj. **"Trainer"** means someone who trains, instructs, teaches or otherwise enables the learner(s) to acquire the appropriate knowledge and skills;
- kk. **"Vice-Chairperson"** means the Vice-Chairperson of the Board appointed by the sponsoring body under Section 4;
- ll. **"Virtual Campus"** includes the education/courses/programmes provided to students through E-learning/website/CD-ROM etc.;

mm. "Vocational Education" means imparting Vocational courses in a certain specialization at a certain level along with General Education under National Skill Qualification Framework.

Section 3- Establishment and incorporation of the Board :

- (1) The sponsoring body shall, as soon as may be after the commencement of this Act, by notification, establish a Board to be called the Board of Open Schooling and Examination, Sikkim.
- (2) The first Chairman, first Vice-Chairman, first members of Board of Management and first members of Executive Board and all persons who may hereafter become such members or officers of any authority and/or committee of the Board, so long as they continue to hold such membership or Office, are hereby constituted Body Corporate by the name of the Board of Open Schooling and Examination, Sikkim.
- (3) The Board shall be a body corporate.
- (4) The Board shall have perpetual succession and a common seal and shall sue and be sued by the said name.
- (5) The Board shall situate and have its Headquarter at Gangtok, Sikkim.

Section 4- Constitution of the Board of Management :

- (1) The Board of Management shall consist of the following members:-

(a)	The Chairperson who shall be an officer appointed by the Sponsoring Body	Ex officio Chairperson
(b)	The Vice-Chairperson who shall be an officer appointed by the Sponsoring Body	Ex officio Vice-Chairperson
(c)	Two nominees of the Government of Sikkim out of which one should be from Education Department.	Ex officio member
(d)	Three educationists of which one shall be a female educationist nominated by the Sponsoring Body	Member
(e)	Two representative of the Sponsoring Body who shall be the Principals of either school or center, having at least 5 years' experience as a Principal.	Member
(f)	Two nominees of the Board out of which one should have experience of industry and the other should have experience in the field of open school education.	Member
(g)	Secretary appointed by the Sponsoring Body	Secretary

- (2) The Constitution of the Board of Management shall be notified by the Secretary of the Board.

Section 5- Terms of Office of other members of the Board :

- (1) A member, other than an ex officio member, shall hold office for a term of 3 years, from the date he/she assumed office.

- (2) On expiry of the term of office as specified under sub-section (1), a member may be re-nominated.

Section 6- Disqualification supervening membership of the Board :

The Chairperson, Vice-Chairperson, Secretary or any other member if becomes subject to any of the disqualifications specified in Section 11 he/she shall cease to be the Chairperson, Vice-Chairperson, Secretary or other member, as the case may be, with effect from such date as the Sponsoring Body may direct.

Section 7- Filling up of Casual and emergent vacancies :

If the Chairperson or Vice-Chairperson or any other member, other than an ex officio member dies or resigns his office or otherwise ceases to be the Chairperson, Vice-Chairperson or other member, the vacancy shall be filled up by a fresh appointment or nomination, as the case may be, as early as possible by the person of the body who had appointed or nominated such a member:

Provided that the person appointed or nominated as a member, on casual and emergent vacancy, shall remain member only for the remaining period of the member, in whose place he is appointed or nominated.

Section 8- Terms of Office of Chairperson and Vice-Chairperson :

The appointment of Chairperson, Vice-Chairperson, and Secretary under sub-section (1) of Section 4 shall be for such period as the sponsoring body may decide and specify. On the expiry of the period of appointments as aforesaid, the Chairperson, Vice-Chairperson, Secretary, may be re-appointed for such period as the sponsoring body may determine so, however, the total period of appointment (including the period of re-appointment) as Chairperson, Vice-Chairperson, Secretary shall not exceed six years.

Section 9- Resignation of Chairperson, Vice-Chairperson, Secretary and other members :

- (1) The Chairperson or Vice-Chairperson or Secretary may resign his office by giving a notice in writing to the Sponsoring Body, stating his intention so to do, and on such resignation being accepted by the Sponsoring Body, the Chairperson or the Vice-Chairperson or Secretary, as the case may be, shall be deemed to have vacated his office.
- (2) The Sponsoring Body may also *suo moto* terminate the services of the Chairperson or Vice-Chairperson or Secretary if their functioning is found detrimental to the purpose/ interest of the Board.
- (3) Any other member may resign his office by giving a notice in writing to the Chairperson, stating his intention so to do, and on such resignation being accepted by the Board such member shall be deemed to have vacated his office.

Section 10- Temporary arrangement for the office of the Chairperson :

If the Chairperson dies or resigns his office or ceases to hold office or is temporarily absent or, for any reason, is unable to exercise the powers and perform the duties of his office, the Sponsoring Body shall authorize the Vice-Chairperson to exercise the powers and perform the duties of the Chairperson until the Chairperson resumes office or a new Chairperson is appointed, as the case may be.

Section 11- Disqualification :

A person shall be disqualified for being appointed or nominated as a member of the Board if he:-

- (a) has been adjudged by a competent court to be of unsound mind;
- (b) is an undischarged insolvent;
- (c) is a discharged insolvent who has not obtained from the court a certificate that his insolvency was caused by misconception without any misconduct on his part;
- (d) has been convicted by a court of an offence involving moral turpitude;
- (e) has been punished for indulging in or promoting unfair practice in the conduct of any examination, in any form, anywhere.

Section 12- Meetings of the Board :

- (1) The annual meeting of the Board shall be held once in every calendar year.
- (2) The Board may hold meetings at such other times as the Chairperson may decide.
- (3) One-third of the total number of members of the Board shall form the quorum of a meeting of the Board.
- (4) The meeting of the Board shall be convened by the Secretary after giving ten days' notice to the members along with the agenda to be prepared by the Secretary in consultation with the Chairperson.
- (5) The Secretary may, on the advice of or in consultation with the Chairperson convene an emergent meeting of the Board, after giving two days' notice to the members, for transacting any urgent matter.

Section 13- Conduct of meeting :

The Chairperson or, in his absence the Vice-Chairperson shall preside over the meetings of the Board and the Chairperson or the Vice-Chairperson, as the case may be shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes, at any such meeting.

Section 14- Restriction on Vote :

- (1) No member of the Board shall vote on any matter in which he has any personal interest.
- (2) The Chairperson, or the Vice-Chairperson, presiding over at the Meeting of the Board shall decide any question arising under sub-section (1), and his decision thereon shall be final.

Section 15- Person in the service of the Board :

- (1) The Board shall have a Secretary who shall be appointed by the Sponsoring Body. The Secretary shall exercise such powers and perform such functions as may be assigned to him by the Chairperson of the Board.
- (2) The Board shall also have Examination Superintendent who shall be appointed by the Sponsoring Body. The Examination Superintendent, subject to provisions of the Act, shall exercise such powers and perform such functions as may be assigned to him by the

Chairperson of the Board.

- (3) The Sponsoring Body may appoint such other officers as it may consider necessary for carrying out the purposes of this Act.
- (4) The Board may appoint its employees as it may consider necessary for carrying out the purposes of this Act and shall determine, subject to the approval of the Sponsoring Body, the terms and conditions of such appointment.
- (5) Mode of recruitment in respect of the posts to be created for the Board shall be either short term contract or regular basis as the Board may think fit. For work related specific assignments persons would be deployed on fixed emoluments with provisions for revision each year if considered appropriate.
- (6) Scales of pay in respect of the posts to be created by Board of Management shall be decided by the Board of Management with the approval of the Sponsoring Body.

Section 16- Powers and functions of the Board of Management :

- (1) The Board of Management shall be the Principal Body of the Board and shall exercise all powers and functions of the Board.
- (2) The Board shall have following powers and functions:-
 - a) to expand access to school education at all levels and to increase retention rates at all levels of schooling;
 - b) to promote open schooling at state and national level by networking, capacity building, sharing of resources and quality assurance;
 - c) to remove obstacles for providing education up to pre-degree level as well as vocational education & training programmes and skill programs to the disadvantaged sections of the society and to bring disadvantaged groups in the fold of mainstream of education;
 - d) to contribute to the Universalisation of School Education and cater to the educational needs of all sections of Society;
 - e) to undertake research, innovation and development activities in the area of Open Schooling to strengthen the Open and Distance Learning system and disseminate the findings of research, innovation and development activities to all stakeholders;
 - f) to take steps for developing strategy plans for promoting and up scaling the Open Schooling programme in India;
 - g) to encourage, promote and conduct a system of Open School Education relevant to the students/learners and to organize training programmes at national and international level on 'open school' system;
 - h) to identify educational needs of the children/persons who are otherwise not catered to by the formal system of school education and to open, establish, recognise and accredit schools/study/academic centers;
 - i) to provide sustainable inclusive learning with universal and flexible access to quality school education i.e. Basic, Secondary, Senior Secondary education as well as vocational education and training programmes and skill development programs through open and distance education;
 - j) to provide opportunities for continuing education to those who have missed

opportunities to complete school and development education and other children/ persons desirous of pursuing school level education through Open and Distance Learning (ODL) mode by offering courses and programmes of general education, life enrichment and vocational education up to pre-degree level;

- k) to open schools/ academic centers, study centers, competitive training institutes and language institutes.
- l) to open/establish/affiliate/recognise/accredit schools for study of various branches of knowledge up to pre-degree level as well as vocational education and training programmes and skill development programs and to conduct examinations thereof.
- m) to open information centers for providing information of Education, to organize conferences, summits, seminars, meeting, discussion, debates, study courses, and to conduct short term and long-term vocational courses/training.
- n) to establish and maintain institution for vocational training in vocation of household industry, semi-skilled jobs for self-employment, short hand and type-writing, and social science, Languages, Fine arts, Crafts, music, painting, modelling, physical training etc.;
- o) to open training camps and workshops for the development of arts, plays and culture and raise funds through subscriptions, donations, trade to fulfill the aims and objects, to publish books, encyclopaedias, monographs and study materials;
- p) to design and develop need based academic and Vocational Education Programmes, courses and Curricula, self-instructional materials (SIM) and other learning support for the courses identified at different points of time including for (I) Open Basic Education (OBE), (II) Secondary and Senior Secondary Education, and (III) Vocational Education and Training (VET) Programmes with focus on skill development, for livelihood and lifelong learning up to pre-degree level;
- q) to develop and prescribe or offer a wide spectrum of courses of study, for purposes of general vocational and continuing education, either leading to certification at the school stage up to the under graduate level (including Certificates/Diplomas) or for life and job enrichment and without certification;
- r) to offer courses of studies through open and distance learning mode, face to face mode known as regular classroom teaching mode, e-learning mode, online mode, virtual classroom mode and any other mode as the Board may decide from time to time;
- s) to grant or refuse recognition to school, institution and study centres and to withdraw such recognition, if it thinks fit, in accordance with such regulations as may be made in this behalf and to maintain a register of recognized schools, institutions and study centres;
- t) to establish and maintain institutions for open and distance education up to pre-degree level school education as well as vocational education and training programmes and skill development programs;
- u) to train the people in general for human resource development in view of the emerging needs such as database development, resource survey methodologies, computer, environmental studies, health, education, and engineering.
- v) to undertake and promote the publication and translation of journal, research papers and books and to develop the audio-visual programmes to disseminate knowledge

pertaining to the objectives of the Board;

- w) to establish any educational institution and other institutions, technical or otherwise anywhere in India, to promote education of art, Science or other related fields and to communicate and coordinate with the Government Local and public authorities on various issues related to development welfare and public interest on different subjects and for efficient working of the Board and the achievement of the above aims and objects as per Government Policy.
- x) to establish regional centres in an outside Sikkim for the purposes of supervising the proper functioning of the learning support centres and study centres;
- y) to set up, establish and administer and maintain offices/chapters in India and/or abroad either on its own or in association with any other institution/Authority in such manner and for such purposes as may be determined by the Board with a view to achieving its objectives;
- z) to conduct examinations and issue certificates, Diploma, etc. to successful learners;
- aa) to prescribe by regulations, conditions for the registration of students, eligibility criteria for appearing at the examinations, for its conduct and for all other matters necessary and incidental thereto for proper fulfilment of teaching and examining and also to publish results of the examinations conducted by the Board and to award diploma, certificates, prizes and scholarships in respect thereof;
- bb) to institute and award, Prizes and Medals subject to such criteria and/or conditions as the Board may determine from time to time;
- cc) to prescribe, fix and demand payment of such fees and other charges and the method of collection thereof, as may be prescribed by regulations;
- dd) to make service regulations for the personnel related to administration of the Board and for the proper management of the functions of the Board including welfare measures for the staff of the Board;
- ee) to make regulations for the conduct of affairs for the Board;
- ff) to collaborate with institutions, schools, skill knowledge and training providers at the State level such as State Council of Educational Research and Training, Sikkim, Institutions of Education in Sikkim and State Institute of Educational Training and Management and Training, Sikkim and also with other institutions, schools, skill knowledge and training providers at the National Level throughout the country;
- gg) to collaborate with national and International agencies like the Institute of National Open Schooling, Indira Gandhi National Open Board, National Council of Educational Research and Training, National Institute of Educational Planning and Administration, Commonwealth of Learning, United Nations Educational, Scientific and Cultural Organization, United Nations International Children's Emergency Fund and similar other agencies for continuing efforts at improvement of quality and standard of distance Educations Process and materials and also for promotion of open schooling;
- hh) to co-operate, collaborate or associate with any other Authority or institution including educational institution or Association in India and/or abroad and Government in India, in such manner and for such purposes as the Board may

determine and deem fit and proper and as may be incidental or conducive in due achievement of the objectives of the Board;

- ii) to partner with Government schemes and programmes at school sector for achieving the national and State goals and objectives;
- jj) to provide consultancy work/services and to engage in model building in close collaboration with States and other agencies or institutions;
- kk) to establish linkages with contemporary education systems like State Boards, Sanskrit Boards, Madrasa Boards and State Open Boards with mainstream education system with mobility across them and equivalence between them;
- ll) to prepare, publish or cause to be published and print, the learning and other materials including the text books developed by the Board, papers, periodicals, etc and to sell the same for the use of the students in furtherance of objectives of the Board;
- mm) to develop multi-media and multi-channel delivery modes for effective transaction of courseware to support courses and programmes;
- nn) to collaborate with agencies and institutions for opening learning support centres or study centres or information centers or facilitation centers for provide learning assistance to the students of the open school and to accord approval and accreditation to such learning support centres or study centres or information centers or facilitation centers in India and abroad;
- oo) to constitute/appoint such committees or sub-committees as may be deemed fit for carrying out the objects of the Board and to prescribe by regulations and guidelines for the proper functioning of such committees or sub-committees;
- pp) to regulate and enforce discipline among the employees of the Board and take such disciplinary measures in this regard as may be deemed fit, proper and necessary by the Board to be necessary;
- qq) to associate any persons or body, in such manner and for such purpose as may be determined by regulations, whose assistance or advice is considered necessary for carrying out any of the provisions of this Act;
- rr) to acquire, purchase, exchange, lease, hire, sell, transfer or otherwise, or hold and manage any property movable or immovable, including trust and endowment property, which may be necessary, convenient and conducive for the purpose of the Board and to build, construct, maintain, improve, alter, modify, extend, repair demolish and acquire such buildings, works and constructions as may be deemed necessary and proper for carrying out the objectives of the Board;
- ss) to seek, obtain or accept grants, assistance, subscriptions, fees, donations, securities, gifts, bequests and properties both movable and immovable from the Government, public bodies, institutions, corporations, companies or trusts Indian/corporation/companies and foundations or from any person for the purposes of the Board to manage efficient, effective and permissible fund flow and fund utilization in consonance with the objects stated herein;
- tt) to sell, lease, exchange, hire or otherwise transfer and dispose off all or any portion of the property, movable or immovable, of the Board, provided that the same is for the purpose of Board;

- uu) to invest and deal with any money/surplus funds and/or securities of the Board not immediately required for any of its activities, purposes and objectives, in such a manner, as may be provided, by the Rules of the Board as may be laid down from time to time;
- vv) to borrow and raise money/funds with or without security or on the security of a mortgage, charge or hypothecation or pledge of all or any property belonging to the Board or in any other manner whatsoever provided that the same is for the purposes of Board;
- ww) to meet out of the fund as aforesaid the expenses of the Board, including the expenses incurred while exercising its powers and discharging its functions under this Act;
- xx) to prepare and maintain accounts and other records and to prepare an annual statement of accounts (including the balance sheet) of the Board in such form as may be decided by the Sponsoring Body;
- yy) to make Bye-laws and the Regulations for the conduct of the affairs of the Board and to add, amend, vary or rescind them from time to time;
- zz) to delegate any of its powers to any of the officers of the school or institution or to any of the committees or sub-committees constituted by the Board, subject to such conditions as may be laid down, for more effective management and functioning of the Board;
- aaa) to do all such other acts and things as may be necessary, incidental, or conducive in the attainment of all or any of the aims and objectives of the Board and to perform such other functions as may be prescribed or deemed necessary by the Board, for advancing the cause of school education including open school education, vocational education and skill development to the discharge of the above functions.

Section 17 - Powers and functions of Chairperson and the Vice-Chairperson :

(1) Chairperson:

- a. the Chairperson shall exercise general supervision and control over the affairs and functioning of the Board;
- b. the Chairperson may, in any emergency, exercise any of the powers of the Board provided, that he shall not act contrary to any decision of the Board and shall, as soon as thereafter may be, report to the Board the action taken by him in exercise of any such power with the reason therefor;
- c. be responsible for carrying out, and for giving effect to, the decisions of the Board or of any committee constituted under this Act;
- d. sanction such claims for allowances, and at such rates, as the Sponsoring Body may determine;
- e. take such other action, not inconsistent with any decisions of the Board, as he considers necessary for the proper functioning of the Board;
- f. the Chairperson may perform such other additional functions as may Board delegate

to him in accordance with regulations made in this behalf.

- (2) The Vice-Chairperson shall perform all functions of Chairperson if a causal vacancy occurs in the Office of the Chairperson, whether by reason of his death, resignation or inability to discharge his functions owing to illness or in other incapacity.

Section 18- Powers and functions of the Secretary and Examination Superintendent :

Subjects to the provisions of this Act, the Secretary and Examination Superintendent shall exercise such powers and functions as may be delegated to him by the Board from time to time or as may be prescribed by Regulations in this regard.

Section 19- Academic Advisory Committee :

- (1) The Board shall constitute an Academic Advisory Committee thereof for advising it on the courses of studies.
- (2) Academic Advisory Committee shall design, develop and prescribe course of study to be offered by the Board, leading to certification at the secondary levels and higher secondary levels and also courses of studies in Vocational and skill development areas to the students of the Board;
- (3) Academic Advisory Committee shall design and develop self-learning materials in print, audio, video, compact disc rom (CD-ROM) and other formats;
- (4) The Academic Advisory Committee shall perform such other functions as may be prescribed and as may be delegated to it by the Board.
- (5) The Advice given by the Academic Advisory Committee shall not be binding on the Board but if the board does not accept the advice of the Academic Advisory Committee the Board shall record the reasons for not accepting the advice given by the Academic Advisory Committee.
- (6) Subject to the other provisions of this section, the Academic Advisory Committee shall consist of seven members including eminent academicians in different branches of knowledge to be nominated by the Board.
- (7) The Chairperson shall be the Chairman of the Academic Advisory Committee, and the Head of the Academic Department shall be the Secretary of the Academic Advisory Committee. The Board shall not nominate more than three members of the Board excluding the Chairperson in the Academic Advisory Committee.
- (8) The Chairperson shall preside over the meetings of the Academic Advisory Committee and, in his absence, the Vice-Chairperson shall preside over such meetings.
- (9) A member of the Academic Advisory Committee, who is also a member of the Board, shall continue to hold office as a member of the Academic Advisory Committee til he ceases to be a member of the Board.
- (10) Any member of the Academic Advisory Committee may resign after giving fifteen days' notice to the Vice-Chairperson and the Board shall have the power to remove any member of the Academic Advisory Committee after recording reasons there for at a meeting.

Section 20- Other Committees of the Board :

- (1) The Board may also constitute the following Committees:—
 - (a) Syllabus Committee;

- (b) Examination Committee;
 - (c) Recognition Committee; and
 - (d) Finance Committee.
- (2) The Board may constitute such other committee or committees as it may think fit.
 - (3) The Committee constituted by the Board shall perform such other functions as may be prescribed and as may be delegated to it by the Board.
 - (4) Each of the Committees constituted under sub-section (1) shall consist of the Vice-Chairperson as its Chairperson and such other members, not exceeding seven as the Board may think fit.
 - (5) Each such committee shall have a Secretary thereof who shall be deputed by the Vice-Chairperson with prior consent of the Chairperson. Provided that the Examination Committee shall have the Secretary to be known as the Examination Controller. Such Secretary shall be an officer appointed by the Sponsoring Body.
 - (6) Any member of the Board may be appointed to be a member of any Committee constituted under sub-section (4) but the total number of members of the Board, including Vice-Chairperson in any such committee shall not exceed four.

Section 21- Functions of Syllabus Committee :

The Syllabus Committee shall advise the Board:-

- (a) on matters relating to the Syllabus; the courses of studies to be followed, and the books to be studied for examination conducted by the Board, and
- (b) on any other matter which is connected with or incidental to the matter referred to in clause (a) which may be referred to it by the Board.

Section 22- Functions of Examination Committee :

(1) The Examination Committee shall advise the Board on:-

- a. the selection of examination centres, paper setters, moderators, tabulators, examiners, invigilators, supervisors or others engaged in connection with the examinations conducted by the Board and the rates of remunerations to be paid to them.
 - b. the fees to be paid by candidates for such examinations, and
 - c. such other matters relating to the examinations as aforesaid as may be referred to it by the Board for advice.
- (2) The Examination Committee shall be responsible for the Conduct of Examinations under the supervision of the Examination Controller and prepare the Certificates of Secondary and Higher Secondary standard and also vocational certificates to be issued to the successful students by the Secretary.

Section 23- Functions of the Recognition Committee :

The Recognition Committee shall advise the Board on all matters relating to the recognition of schools, institutions, study centres, centres, etc.

Section 24- Functions of the Finance Committee :

The Finance Committee shall prepare the budget of the Board and shall advise the Board on such matters relating to finance as may be referred to it by the Board for advice.

Section 25- Functions of other Committee :

The committee, if any, constituted by the Board under sub-section (2) of Section 19 shall perform such functions as may be assigned to it by the Board.

Section 26- Admission :

- a. Admission to the institutions/schools established, recognised or accredited by the Board shall be open to all.
- b. The Board shall prescribe the conditions and criteria for admission of students.

Section 27- Fee Structure :

The Board shall prescribe the fee structure to be charged for various courses being conducted by the Board.

Section 28- Annual Report :

- (1) The Chairperson shall place at the first annual meeting of the Board in the year next following the year in which it is constituted and at every annual meeting thereafter a report on the working of Board during the last preceding financial year. He shall also place annual accounts of the Board of that year.
- (2) The report and the annual accounts shall be forwarded to the Board before one month of its presentation at the annual meeting of the Board with such comments thereon as the Chairperson may think fit to make.

Section 29- Budget :

- (1) The Chairperson shall place at every annual meeting a Budget estimate, in such form as may be prescribed, showing the anticipated income and expenditure of the Board during the financial year in which the annual meeting is held.
- (2) The Budget estimate shall, after confirmation by the Board, be forwarded to the Sponsoring Body within such time as may be prescribed.
- (3) The Sponsoring Body shall, within one month of the receipt of the Budget Estimate, either accord its approval thereon or return it to the Board with such comments and suggestions as it may deem necessary if, in its opinion such estimate:-
 - i. is not reasonable or accurate with reference to the ascertainable facts;
 - ii. includes new items of recurring expenditure which are likely to impose upon the Board in the future financial liabilities which the Board is not likely to be able to meet from its income; or
 - iii. includes provisions for such expenditure which are not in accordance with the provisions of this Act.
- (4) If the Budget Estimate is returned under sub-section (3), the Board shall consider the comments and suggestions made by the Sponsoring Body and may, if it thinks fit, revise

the said estimate. The Board shall then, submit the Budget estimate as so revised to the Sponsoring Body or the Board shall, if it does not think fit to revise the estimate, submit it in its original form to the Sponsoring Body within one month of receiving it together with its comments.

- (5) If the Sponsoring Body does not approve the Budget estimate as revised by the Board or if the Budget Estimate is returned by the Board without revision, the Sponsoring Body may amend the Budget Estimate by making:-

- i. such modifications as are, in its opinion, necessary to render the Estimate reasonably accurate with reference to ascertainable facts or to balance the income and the expenditure;
- ii. additions, alterations or modifications in any provision relating to new expenditure of a recurring nature;
- iii. any alterations or modifications in any provisions for expenditure, which in its opinion, are not in accordance with the provisions of this Act;

and shall forward the Budget estimate as so amended to the Board, and the Budget estimate so returned shall be the Budget Estimate of the Board for the relevant financial year.

- (6) If the Sponsoring Body does not accord its approval to the Budget Estimate referred to in sub-section (5) such estimate shall within three months of receipt thereof by the Sponsoring Body for such approval or within two months of re-submission thereof by the Board with or without revision, be deemed to have been approved by the Sponsoring Body.

Section 30- Fund of the Board :

- (1) The Board shall be primarily self-financed. However, it will be entitled to receive grant in aid or financial assistance from the State or Central Government or any other local or statutory body of State or Central Government under any scheme or project.
- (2) The Board shall create a fund to be called the Board Fund (hereinafter referred to in this Act as the Fund of the Board) to which shall be credited:-
 - a. all sums which may be paid by the Sponsoring Body, any Government or Governmental Body or any Statutory or Local Body,
 - b. all fees and other charges realised under any of the provisions of this Act,
 - c. all monies received by the Board from a school, institution, study centre or by way of grants, gifts, donations, benefactions, bequests or transfer,
 - d. all sums representing income from endowments, if any, or from property owned or managed by the Board, and
 - e. all other sums received by the Board on behalf of the open school from any other sources.
- (3) The Fund shall vest in the Board and shall be under its control and be held in trust for the purposes of this Act.
- (4) All monies payable to the credit of the Board shall forthwith be paid into any Bank as may be decided by the Sponsoring Body, to the credit of the Fund and all cheques drawn on the fund shall be signed by the Secretary, or by such other person as may be authorised by him in writing on his behalf.

Section 31- Expenditure from the fund :

- 1) The general fund of the Board shall be utilized for meeting all expenses, recurring or non-recurring, in relation to the affairs and functioning of the Board.
- 2) No expenditure shall be incurred from the Fund of the Board except for the purposes of this Act and unless such expenditure is provided for in the Budget as approved under this Act or may be met by re-appropriation in such manner as may be prescribed.

Section 32- Accounts :

- 1) The Board shall keep an account of all its receipts and expenditure in such manner as may be prescribed.
- 2) The Annual Accounts including Balance Sheet of the Board shall be prepared under the directions of Board of Management.

Section 33- Audit :

- (1) The account of the Board shall be examined and audited annually by an auditor or auditors appointed by the Sponsoring Body in such manner as may be prescribed.
- (2) It shall be the duty of the Board and every member thereof and of the Secretary and other officers and employees in the service of the Board to afford to the auditor every facility for the examination and audit of the accounts of the Board and to comply with any requisition made by auditor and the requirements of any rule made in this behalf.

Section 34- Audit Report :

- (1) After the completion of the audit, the auditor shall submit within 14 days to the Sponsoring Body a report on the accounts audited, and shall send a copy thereof to the Board and thereupon, the Board shall forward the report to the Sponsoring Body with its comments thereupon.
- (2) The Sponsoring Body shall take such action on the report submitted under Section 1 as it thinks fit.

Section 35- Payment of allowances :

- (1) Subject to the provisions of Section 7 the members of the Board or of any committee constituted under this Act shall receive such allowances for attending the meetings of the Board or the committee, as the case may be and for other such purposes, as the Sponsoring Body may determine.
- (2) As per the provision of sub-section (1) of Section 6 of the Right to Information Act, 2005 the Secretary shall be the Information Officer to provide information to the public.

Section 36- Board to furnish information :

The Board shall furnish to the Sponsoring Body such reports, returns, and statements as may be prescribed and such further information or any matter relating to the Board as the Sponsoring Body may require.

Section 37- Power of Sponsoring Body to suspend proceedings :

The Sponsoring Body may, by order in writing and stating the reasons therefore, suspend the execution of any resolution or order of the Board or of any committee constituted under this

Act and prohibit the doing of any act which is purported to be done or is intended to be done under this Act, if the Sponsoring Body is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act on the Board or any committee, as the case may be.

Section 38- Indemnity :

No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Section 39- Savings :

No Act or proceeding under this Act shall be invalid merely on the ground of:-

- (a) the existence of any vacancy in, or any defect in the constitution of the Board or any committee constituted under this Act; or
- (b) any member of the Board having cast his vote in any matter in contravention of the provisions of Section 15; or
- (c) any defect or irregularity not affecting the merit of any case.

Section 40- Transitory provisions :

- (1) The Chairperson shall make the first regulations for the purposes of this Act.
- (2) The first regulations shall remain in force for a period of one year or until regulations are made by the Board under this Act, whichever is earlier.

Section 41- Powers to make rules :

- (1) The Board may, make rules for carrying out the purposes of this Act.
In particular, and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters:-
 - (a) the acquisition, possession and disposal of property by the Board, the conditions of such acquisition, possession and disposal, and the doing of any other thing;
 - (b) the provident fund as may be instituted and administered by the Board;
 - (c) the form and manner in which the Budget Estimate of the Board shall be prepared;
 - (d) the time within which the Budget Estimate shall be forwarded to the Sponsoring Body;
 - (e) the manner in which all payments to and from the fund of Board shall be made.
 - (f) the manner of re-appropriation.
 - (g) the manner of keeping of accounts of receipts and expenditure.
 - (h) the manner in which examinations and audit of accounts of the Board shall be made;
 - (i) the reports, returns and statements to be furnished by the Board and the form of such reports, returns and statements; and
 - (j) any other matter required to be prescribed, or to be provided for, by rules.

Section 42- Power to make regulations :

- 1) The Board may, make regulations for carrying out the purposes of this Act.
- 2) The Board and by notification, make regulations not inconsistent with the provisions of this Act and rules in respect of any matter relating to the proper exercise of its powers and discharge of its functions under this Act or any other matter.

Section 43- Board to be guided by directions of Sponsoring Body :

The Board shall, in exercising its powers and performing its duties under this Act, be guided by such directions in the matter of scope and content of courses of studies as the Sponsoring Body may by notification give from time to time.

Section 44- Powers of the State Government to call for information :

- (1) The State Government may call for information from the Board relating to its working, functions, achievements, standard of teaching, examination and research or any other matters as it may consider necessary to judge the efficiency of the Board in such form and within such time as may be prescribed by rules.
- (2) The Board shall be bound to furnish the information as required by the State Government under sub-section (1) within the prescribed time.

Section 45- Dissolution of the Board by the Sponsoring Body :

- (1) The Sponsoring Body may dissolve the Board by giving a notice to the effect in the prescribed manner to the State Government and employees and the students of Board at least one year in advance:

Provided that dissolution of the Board shall have effect only after the approval of the State Government and the last batched of students of the regular courses have completed their courses and they have been awarded degrees, diplomas or awards, as the case may be.

- (2) On the dissolution of the Board land and property of the Board will be vested with the Sponsoring Body.

Section 46- Special powers of the State Government in certain circumstances :

- (1) If it appears to the State Government that the Board has contravened any of the provisions of this Act made thereunder or has violated any of the directions issued by it under this Act or has ceased to carryout any undertaking given by it to the State Government or a situation or mal-administration has arisen in the Board, it shall issue notice inquiring the Board to show cause within forty-five days.
- (2) If the State Government on receipt of reply of the Board on the notice issued under sub-section (1), is satisfied that there is a *prima facie* case of contravening any of the provisions of this Act or the rules made thereunder or of violating directions issued by it under this Act or of ceasing to carry out the undertaking given by it or mal-administration, it shall make an order such enquiry as it may consider necessary.
- (3) The State Government shall, for the purposes of any enquiry under sub-section (2), appoint an arbitrator to inquire into any of the allegations and to make report thereon.
- (4) The arbitrator appointed under sub-section (3) shall have the same powers as provided as per the Arbitration and Conciliation Act, 1996; while trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of any such document or any other material as may be predicable in evidence; and
 - (c) requisitioning any public record from any court or office.
- (5) On receipt of the enquiry report from the officer or officers appointed under sub-section (3), if the State Government is satisfied that the Board has contravened any of the provisions of this Act or the rules made thereunder or has violated any of the directions issued by it under this Act or has ceased to carry out the undertakings given by it or mal-administration has arisen in the Board which threatens the academic standard of the Board, it shall make orders for corrective actions or direction.

Section 47- Power to remove difficulties :

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act, as appear in it to be necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after the expiry of a period of two years from the date of commencement of this Act.

- (2) Every order made under this section shall, as soon as may be after it is made, shall be laid before the House of the State Legislature.

Jagat B. Rai (SSJS)
L.R-cum-Secretary
Law Department